DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 2756-99
22 May 2000

[redacted]

Dear [redacted]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Specialty Leader for Orthopedic Surgery dated 4 April 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

DEPARTMENT OF ORTHOPAEDIC SURGERY
NAVAL HOSPITAL CAMP PENDLETON

[redacted]

CAMP PENDLETON, CALIFORNIA 92055

From: CDR Wayne Inman, MC, USNR
Department of Orthopaedic Surgery
To: Orthopaedic Specialty Leader, Naval Hospital, Bremerton

Subj: RESPONSE TO REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE OF FORMER [redacted]

This is an orthopedic specialty review in the case of [redacted] for the Board for Correction of Naval Records. The issue in this case appears to be whether or not the findings of spondylolysis and spondylolisthesis were the result of a traumatic event that occurred while the above member was on active duty. For the sake of clarity of thought in this case, I will separate this issue into several questions which I will attempt to answer individually.

The first question is "Did the accident cause or create the bilateral L5 spondylolysis and grade I L5S1 spondylolisthesis?". Interpretations of the radiographs obtained at the time of the accident are consistent with a isthmic spondylolysis. This is most commonly the result of a congenital and developmental process. Very rarely is this associated with an acute traumatic fracture of the pars. The history provided by the member describes an injury where his vehicle strikes a concrete embankment at approximately 80 mph and causes him to be thrown through the windshield into a ditch. He is then apparently able to climb out of the ditch and flag down a passing truck to take him to the hospital. Unfortunately, further testing to evaluate for acute fracture was not performed or not available at that time. Symptoms described at that time are consistent with a mild to moderate low back injury. In reviewing the findings of the board at that time, it appears that there was concern that the finding of spondylolisthesis was incompatible with continued military service. The records seem consistent with the discovery of an underlying defect as opposed to the occurrence of an acute fracture. Therefore, it is my opinion that the accident did not directly cause the spondylolysis or spondylolisthesis.

The next question would be "Did the accident cause additional injury, unrecognized, that later led to degenerative disease of the lumbar spine, the apparent cause of his current disability?". Unfortunately, it appears the majority of any medical records following his discharge are not available to be reviewed at this time. His injury at the time of the accident will be consistent with a mild to moderate lumbar strain. It is unlikely that this type of injury would have led to significant degenerative disease of the spine in of itself. In addition, he apparently underwent some type of lumbar fusion in 1991 which did not improve his condition to any significant degree. This might lead one to suspect that any instability between L5 and S1 was not the cause of his back symptoms. It should also be noted at this time that the member has had additional injuries to his back region since the original accident. It is therefore my opinion that the member currently suffers from degenerative condition of lumbar spine that was not directly or significantly caused by the accident in 1954.

"Did the accident occurred in the line of duty and not due to misconduct?". Obviously this issue is non-medical in nature but I am concerned that the member was driving approximately 80 mph at the time of the accident. This is my only comment on this question.

The next issue surrounds the question "Did the accident aggravate the pre-existing condition to make it symptomatic?". It would be impossible at this time to actually answer this question. Were this accident to occurred at this time in history, further diagnostic testing such as a bone scan and MRI study, would be helpful in evaluating whether an acute injury has occurred in the region of the L5 pars defects.

Aside from the etiology of the L5 pars defects, the next question would be "Is the L5 S1 spondylolisthesis the cause of his current disability?". As previously noted, the member apparently underwent some type of lumbar fusion to treat his supposedly symptomatic spondylolisthesis. This was entirely unsuccessful in alleviating his symptoms which appear to be consistent with a degenerative process of the entire lumbar spine, not just the L5 S1 motion segment. It is therefore my opinion that the answer to this question is that the spondylolisthesis is not a significant contributor to his current symptomatic degenerative process.

The most basic question of this time would be "Would the member be experiencing similar impairment and/or disability absent the motor vehicle accident of 1954?". It is my opinion at this time, based on review of the provided records and review of the medical literature regarding spondylolysis and spondylolisthesis, that the member would be experiencing the same symptoms of his degenerative lumbar disease with or without the accident in 1954.

In summary, I agree with the original diagnosis of L5 S1 spondylolisthesis , that existed prior to enlistment, and was not aggravated by his period of service. It should also be noted at this time that review of the records is unclear regarding the true reason for his discharge. There is little or no description provided of ongoing symptoms or limitations in his work activities. It would appear that the discovery of the congenital defect itself was a proximate cause of his discharge. Physical examination at the time of discharge was entirely normal. However, it is impossible to objectively examine pain. Perhaps a more appropriate diagnoses for medical discharge would have been chronic lumbar strain following the motor vehicle accident on May 281954. Nonetheless, there is insufficient evidence at this time to claim that his current lumbar disabilities were caused or significantly contributed to by the injuries sustained in the accident of 1954.

Respectfully,

D.C. Covey for

Wayne Inman